

AMENDED IN SENATE MAY 3, 2006

SENATE BILL

No. 1370

Introduced by Senator Chesbro
(Principal coauthor: Assembly Member Evans)

February 21, 2006

An act to ~~amend Section 23958.4~~ *add and repeal Section 23958.5* of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1370, as amended, Chesbro. Alcoholic beverages: issuance and transfer of licenses.

The Alcoholic Beverage Control Act specifies the rules and procedures for the issuance and transfer of alcoholic beverage licenses by the Department of Alcoholic Beverage Control. The act requires the department to make a thorough investigation to determine whether the applicant for a license and the premises for which a license is applied qualify for a license, and requires the department to deny an application for a license if, among other things, issuance of the license would result in or add to an undue concentration, as defined, of licenses, except as provided. The act defines undue concentration to include the condition where the applicant premises are located in a crime reporting district that has a 20% greater number of reported crimes, as defined, than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.

~~This bill would modify the definition of a reporting districts to include those that are identified by charges per acre per Emergency Service Zone, as provided. require the department to establish a one year pilot project that requires the City of Santa Rosa to submit the~~

crimes per acre as well as the crime statistics already required to be reported. The bill would require the department to issue a report to the Legislature on or before June 30, 2008, that includes a comparative analysis of the reporting methods. The bill would repeal these requirements on January 1, 2009. This bill would make a legislative finding and declaration of the necessity to enact special legislation with respect to the City of Santa Rosa.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 23958.5 is added to the Business and*
- 2 *Professions Code, to read:*
- 3 *23958.5. (a) The Department of Alcoholic Beverage Control*
- 4 *shall establish a one year pilot project that requires the City of*
- 5 *Santa Rosa to submit the crimes per acre as well as crime*
- 6 *statistics required by Section 23958.4. On or before June 30,*
- 7 *2008, the department shall issue a report to the Legislature that*
- 8 *includes a comparative analysis of the reporting methods.*
- 9 *(b) This section shall remain in effect only until January 1,*
- 10 *2009, and as of that date is repealed, unless a later enacted*
- 11 *statute, that is chaptered before January 1, 2009, deletes or*
- 12 *extends that date.*
- 13 *SEC. 2. The Legislature finds and declares that a special law*
- 14 *is necessary and that a general law cannot be made applicable*
- 15 *within the meaning of Section 16 of Article IV of the California*
- 16 *Constitution because of the unique representative sampling of*
- 17 *crime statistics that will be provided by the City of Santa Rosa.*
- 18 *SEC. 3. No reimbursement shall be made pursuant to Part 7*
- 19 *(commencing with Section 17500) of Division 4 of Title 2 of the*

Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

~~SECTION 1. Section 23958.4 of the Business and Professions Code is amended to read:~~

~~23958.4. (a) For purposes of Section 23958, “undue concentration” means the case in which the applicant premises for an original or premises-to-premises transfer of any retail license are located in an area where any of the following conditions exist:~~

~~(1) The applicant premises are located in a crime reporting district that has a 20 percent greater number of reported crimes, as defined in subdivision (c), than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.~~

~~(2) As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.~~

~~(3) As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.~~

~~(b) Notwithstanding Section 23958, the department may issue a license as follows:~~

~~(1) With respect to a nonretail license, a retail on-sale bona fide eating place license, a retail license issued for a hotel, motel, or other lodging establishment, as defined in subdivision (b) of Section 25503.16, a retail license issued in conjunction with a beer manufacturer’s license, or a winegrower’s license, if the applicant shows that public convenience or necessity would be served by the issuance.~~

~~(2) With respect to any other license, if the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public~~

1 convenience or necessity would be served by the issuance. The
2 90-day period shall commence upon receipt by the local
3 governing body of (A) notification by the department of an
4 application for licensure, or (B) a completed application
5 according to local requirements, if any, whichever is later.

6 If the local governing body, or its designated subordinate
7 officer or body, does not make a determination within the 90-day
8 period, then the department may issue a license if the applicant
9 shows the department that public convenience or necessity would
10 be served by the issuance. In making its determination, the
11 department shall not attribute any weight to the failure of the
12 local governing body, or its designated subordinate officer or
13 body, to make a determination regarding public convenience or
14 necessity within the 90-day period.

15 (e) For purposes of this section, the following definitions shall
16 apply:

17 (1) “Reporting districts” means geographical areas within the
18 boundaries of a single governmental entity (city or the
19 unincorporated area of a county) that are identified by the local
20 law enforcement agency in the compilation and maintenance of
21 statistical information on reported crimes and arrests or the
22 charges per acre per Emergency Service Zone.

23 (2) “Reported crimes” means the most recent yearly
24 compilation by the local law enforcement agency of reported
25 offenses of criminal homicide, forcible rape, robbery, aggravated
26 assault, burglary, larceny theft, and motor vehicle theft,
27 combined with all arrests for other crimes, both felonies and
28 misdemeanors, except traffic citations.

29 (3) “Population within the census tract or census division”
30 means the population as determined by the most recent United
31 States decennial or special census. The population determination
32 shall not operate to prevent an applicant from establishing that an
33 increase of resident population has occurred within the census
34 tract or census division.

35 (4) “Population in the county” shall be determined by the
36 annual population estimate for California counties published by
37 the Population Research Unit of the Department of Finance.

38 (5) “Retail licenses” shall include the following:

39 (A) Off-sale retail licenses: Type 20 (off-sale beer and wine)
40 and Type 21 (off-sale general).

1 ~~(B) On-sale retail licenses: All retail on-sale licenses, except~~
2 ~~Type 43 (on-sale beer and wine for train), Type 44 (on-sale beer~~
3 ~~and wine for fishing party boat), Type 45 (on-sale beer and wine~~
4 ~~for boat), Type 46 (on-sale beer and wine for airplane), Type 53~~
5 ~~(on-sale general for train and sleeping car), Type 54 (on-sale~~
6 ~~general for boat), Type 55 (on-sale general for airplane), Type 56~~
7 ~~(on-sale general for vessels of more than 1,000 tons burden), and~~
8 ~~Type 62 (on-sale general bona fide public eating place~~
9 ~~intermittent dockside license for vessels of more than 15,000 tons~~
10 ~~displacement).~~

11 ~~(6) A “premises to premises transfer” refers to each license~~
12 ~~being separate and distinct, and transferable upon approval of the~~
13 ~~department.~~

14 ~~(d) For purposes of this section, the number of retail licenses~~
15 ~~in the county shall be determined by the most recent yearly retail~~
16 ~~license count published by the department in its Procedure~~
17 ~~Manual.~~

18 ~~(e) The enactment of this section shall not affect any existing~~
19 ~~rights of any holder of a retail license issued prior to April 29,~~
20 ~~1992, whose premises were destroyed or rendered unusable as a~~
21 ~~result of the civil disturbances occurring in Los Angeles from~~
22 ~~April 29 to May 2, 1992, to reopen and operate those licensed~~
23 ~~premises.~~

24 ~~(f) This section shall not apply if the premises have been~~
25 ~~licensed and operated with the same type license within 90 days~~
26 ~~of the application.~~